

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEI KUM CHU, SAU KING CHUNG, and QUN XIANG
LING, individually and on behalf of all others similarly
situated,

Plaintiffs,

- against -

CHINESE-AMERICAN PLANNING COUNCIL HOME
ATTENDANT PROGRAM, INC.,

Defendant.

Civil Action No.: 1:21-cv-02115-
AT

**DECLARATION OF KENNETH KIRSCHNER IN SUPPORT OF DEFENDANT’S
MOTION TO DISMISS AND/OR STAY THE MATTER**

KENNETH KIRSCHNER, under penalties of perjury, hereby affirms:

1. I am a partner with the firm of Hogan Lovells US LLP, counsel for Defendant Chinese-American Planning Council Home Attendant Program, Inc. (“CPC”). I am an attorney duly admitted to practice in this Court. I submit this declaration in support of Defendant’s Memorandum of Law in Support of Its Motion to Dismiss and/or Stay the Matter (“Motion”), and to place before this Court true and correct copies of certain documents in support of the Motion. I am fully familiar with the facts and documents set forth herein.

2. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiffs’ 2016 Summons and Complaint, dated April 11, 2016.

3. Attached hereto as **Exhibit B** is a true and correct copy of the collective bargaining agreement (the “CBA”) by and between CPC and 1199SEIU United Healthcare Workers East (the “Union”), as amended by memoranda of agreement.

4. Attached hereto as **Exhibit C** is a true and correct copy of a memorandum of agreement (the “2015 MOA”), executed on December 7, 2015, by and between CPC and the Union, which supplements the CBA’s existing alternative dispute resolution provision.

5. Attached hereto as **Exhibit D** is a true and correct copy of the arbitral award issued by Arbitrator Martin F. Scheinman on April 17, 2020 (the “Award”), in the industry-wide grievance-arbitration commenced by the Union on behalf of its home care industry members, concerning alleged wage and hour violations by CPC and other home care agencies (the “Arbitration”).

6. Attached hereto as **Exhibit E** is a true and correct copy of the amended complaint filed on November 9, 2015 in *Chan, et al. v. Chinese-American Planning Council Home Attendant Program, Inc.*, Index No. 650737/2015.

7. Attached hereto as **Exhibit F** is a true and correct copy of the grievance filed by the Union on January 2, 2019, commencing the Arbitration.

8. Attached hereto as **Exhibit G** is a true and correct copy of Judge Koeltl’s February 18, 2021 order (the “Confirmation Order”), affirming the Arbitrator’s jurisdiction over the wage and hour claims in the Arbitration.

9. Attached hereto as **Exhibit H** is a true and correct copy of Plaintiffs’ Amended Complaint, dated February 24, 2021.

10. As of March 18, 2021, the Union Arbitration is in active discovery before Arbitrator Martin F. Scheinman, Esq.

Dated: New York, New York
March 18, 2021

/s/ Kenneth Kirschner

Kenneth Kirschner

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